

ORIGINAL

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

2011 JAN 25 PM 2: 22

DEPUTY CLERK

[Signature]

ARTHUR CARSON,

*

PLAINTIFF,

*

V.

*

3-11079139 B

DANA ARNETTE, in Her Official*
Capacity as Manager of Intake & Placement
Dallas County Housing Authority, Texas *

*

CAROLYN STOVALL, IN Her Official Capacity,
As intake Rep for Low Income & Section 8 Housing,*
Of Dallas County, Texas;

*

DEFENDANTS.

*

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. PRELIMINARY STATEMENT

- (1).Plaintiff brings this action based on Equal Treatment Under the Fourteenth Amendment of the United States Constitution, contemporaneously with the Due Process Clause , accord the Fifth- Amendment of the United States Constitution, for the arbitrary denial of admission, termination of Assistance from the “ Dallas Housing Authority” hereinafter “DHA”. Where Plaintiff were denied Fair participation in the Section 8 or Low Income Housing Program operated by the Dallas Housing Authority.
- (2).This dispute stem from the DHA use of false Criminal History Information in addition to Plaintiff's Own twenty-two Year Old Conviction, and not allowing Plaintiff to dispute the inaccurate information Before or after termination of Assistance, see 24 CFR 5.903(f).
- (3). The DHA has a Legal obligation to use accurate Criminal Background information from a Law- Enforcement Agency, where the Defendant's used a Internet Company, whom used Uncertified

documents., Contrary to Title 24 CFR 5.903.

(4).The Defendant's lack of due process and disenfranchisement of Plaintiff on a twenty-two year old Conviction do not afford Plaintiff the same Access to Residential Rent subsidy or low-income housing To aid Lower income Families in obtaining a decent place to live, to which Plaintiff seeks a declaratory Termination of this practice or custom of exclusion. Since no evidence were given to establish Plaintiff engaged in current criminal activity , or any within a reasonable time, 24 CFR 982.553(c)(2); Other than use of inaccurate data supplied by a Non- Law Enforcement Agency.

(5). Additionally, this action is based on the DHA's termination of Assistance for "Criminal-Activity without specifying any evidence, which were vague and ambiguous.

(6). The Plaintiff, ARTHUR CARSON, is A Natural Person, residing in Dallas County, Texas. His Family consists of Himself and Common-Law Wife, whom both are Disable, and live below poverty Standards.

(7). The Defendants, DANA ARNETTE, is the Manager of Intake and Placement for DHA, and Responsible for administering the section 8 subsidy program to the poor, and conducting the Informal Review of any Termination of housing assistance, pursuant to Title 24 CFR 982.554.

(8). The Defendant, CAROLYN STOVAL, is the Intake and Placement person to make the determination Of Criminal Activity based on inaccurate Criminal Activity, and with-holding said documents from Plaintiff to view, as per 24 CFR 982.55 "DISCOVERY".

Plaintiff has vowed to refrain from any Violent acts since His 1988 Conviction, And willing to refrain from any violent actions to others . Defendant's actions were improper under HUD "Housing of- Urban Development" Guidelines, pursuant to the Waiver Clause.

(9). The Defendant's have circumvented and created law, by denying aid to Low-income Families, See Title 42 U.S.C. 1437f, coupled with the fact Plaintiff is disable and live off a meager SSI Monthly Payment of \$674.

(10). The right to have the DHA Hearing Officer's decision from the Review process to state the Elements of fact or law on which the decision to uphold the termination of assistance was based is unclear, whether the DHA used the unauthentic background report or relied on Plaintiff's old Conviction, or both. Nevertheless, because of Plaintiff's age, (56); and disabilities, "Physical and Mental", The unreasonable misuse of HUD's Regulation is contrary to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as defined by 29 U.S.C. 706(7).

If Plaintiff's twenty-two year old conviction cause the termination of assistance, this One Strike Practice have led to blanket exclusion of Plaintiff from HUD Assisted housing or Section 8 Programs because Plaintiff is a Ex-felon. It should be Noted that Plaintiff is eligible to Vote in The State of Texas as an Ex-felon, yet denied subsidize housing is absurd and a barrier to basic Services.

(11). The Defendant's failure to use a "Reasonable Time" for considering Criminal Activity allows The DHA to consider past criminal activity infinitely, and goes beyond what is required by current Federal law.

(12). The Section 8 program is governed by 42 U.S.C. 1437f, and other related sections of 42 U.S.C.-1437; its basic purpose is to provide lower income Families with safe, decent and sanitary housing. The federal regulations of the statute are found at 24 CFR part 982.

(13). Plaintiff seeks a declaration that the termination of His section 8 assistance violates substantive Provisions of 24 CFR 982.552 and the due process requirements of 24 CFR 982.555 and the due process Clause of the Fourteenth Amendment of the United States Constitution.

(14). Jurisdiction is conferred on this Court by 28 U.S.C. 1331 in that this is a "Federal Question"

Litigation comprising a civil action arising under the laws of the United States.

(15). Jurisdiction is also conferred by 28 U.S.C. 1343(a) (3,4).

(16). Plaintiff's claims for declaratory and injunctive relief are authorized by 28 U.S.C. 2201, and 2202

With respect to all Defendants.

(17). As pertinent hereto, the section 8 Program permits "Permissive prohibitions" in denial of admission And termination of assistance for criminals and alcohol abusers " if the Housing Authority determines that Any household member is currently engaged in, or has engaged in during a reasonable time before the Admission", 24 CFR 982.553(B)(2)(ii). However the question remains, what is a Reasonable time before Ex-felons can enjoy the basic assistance from the Government?

I. FACTUAL ALLEGATIONS:

On July 21,2010, PLAINTIFF, applied for section 8or rent subsidy for low income housing,(confirmation- NO.96853226) with the Defendants. On 12/13/10, Carolyn Stoval, notified Plaintiff by mail that the DHA were withdrawing assistance for "Criminal Activity";

On 12/16/10, Plaintiff made via fax, a request for informal review, 24 CFR 982.554, and request for Public information request for files relating to the withdrawal and the criminal activity. A request Were made in addition to Carolyn Stoval, Sheniqua Showers, DHA Represenative. However, the Defendants ignored Plaintiff request for discovery of documents. After learning of the background Company used, Plaintiff contacted the company, whom later provided twenty-four pages of someone Bearing the same name as Plaintiff but not plaintiff, e.g., "different dates of birth, different middle names, Etc.,". Plaintiff filed a complaint with the Better Business Bureau regarding the lack of authentication Of background records. The company agreed to revise its report, yet failed to do so.

On 1/04/2011, during the Review Hearing conducted by Dana Arnette, DHA manager of Intake, Plaintiff presented as evidence the Background check company agreement with the Better Business Bureau to revise its report, that placed the Defendant's on notice again that its reliance on this report were erroneous.

Plaintiff also presented at the Hearing a written objections to the withdrawal of housing assistance, And the lack of due process for refusing to allow any dispute of the use of inaccurate criminal background Records . Plaintiff also requested a Waiver from any reliance of His past criminal conviction, pursuant to DHA FY-2010-PHA 5-Year annual Plan regarding criminal history activity , page 20, sec. (b)(4).

On 01/07/2011, Defendant Arnette, sent Plaintiff a letter of denial from the Review Hearing. No elements of fact which this decision were based were given, see attached, Exhibit-(B). No element of law regarding the issues raised during the hearing are present, e.g., "The lack of Of a Law Enforcement Agency doing the Background check," or the inaccurate records used. No factual elements were given of Plaintiff's so call "Criminal Activity".

(a). The Defendants have unlawfully terminated assistance to Plaintiff without any proof, since Reliance on non-Law Enforcement records have deprived Plaintiff of a Right secured by the laws of the United States under color of state law, in violation of 42 U.S.C. 1983.

(b). Defendants have Violated Plaintiff's rights under the Freedom of Information Act, pursuant to 5 U.S.C. 552.

(c). The statutory phrase, Elements of due process is defined by HUD at 24 CFR 966.53 (c); the Defendants ignored this element;

(d). The DHA has abused its discretion by ignoring the Mitigating circumstances of Plaintiff's Disabilities, Age, and HUD's Waiver Clause regarding old Convictions.

(e). The Defendants have Violated Plaintiff's Right to Equal Treatment with the imposition of Permanent civil disabilities against Plaintiff.

III.PRAYER:

WHEREFORE, Plaintiff Prays that this Court will:

- 1). Declare that the Defendants have violated 42 U.S.C. 1983 in failing to accord Plaintiff the Procedural rights guaranteed to Him by 24 CFR 982.555, and the Due Process Clause of the Fourteenth Amendment of the United States Constitution.
- 2). Declare that Defendants have violated 42 U.S.C. 1983, by terminating Plaintiff's section 8 Or low income Housing assistance opportunity.
- 3). Enjoin the Defendants to reinstate assistance, forthwith, Plaintiff's section 8 eligibility.
- 4). Grant such other and further relief to Plaintiff as may be just and Equitable under the Circumstances.

I Arthur Carson, Swear the foregoing statements made herein are true and correct.

Dated this 24th day of Jan, 2011.



Dallas Housing Authority

3939 N. Hampton Rd., Dallas, TX 75212 | Phone: 214.951.8300 | Fax: 214.951.8800 | www.dhadal.com

12/28/2010

ARTHUR CARSON
2608 HIGHLAND RD 110
DALLAS, TX 75228

RE: CLIENT #: 00010002850

NOTICE OF INFORMAL REVIEW

Dear ARTHUR CARSON:

The Dallas Housing Authority (DHA) has received your request for an Informal Review of the decision withdrawing your application for housing assistance. Please be advised that a review has been scheduled in the Intake and Placement Division at the central office of DHA, located at 3939 North Hampton Road, Dallas, Texas 75212, for the following date and time:

Tuesday, 01/04/2011 at 8:30am

Please be on time. If you are more than 15 minutes late, it will be considered a "no show," and your application will remain withdrawn. If you are unable to keep this appointment, please call 214-224-3611 or 214-224-3614. You will be re-scheduled **only one** time.

Only evidence submitted at this meeting/review will be considered. Therefore, please bring with you to this meeting/review any evidence that is relevant to the decision to withdraw your application for housing assistance.

Sincerely,

Manager of Intake & Placement

cc: file

DHA is a Fair Housing and Equal Opportunity Agency
Individuals with disabilities may contact the 504/ADA Coordinator at 214.951.8348,
TTY 1.800.735.2989 or 504ADA@dhadal.com

EXHIBIT-(1)

Consumer Info: Carson, Arthur
2608 Highland Rd 110
Dallas, TX 75228
214 457-9276 214 324-5667

Business Info: Backgroundchecks Com
12770 Coit Rd Ste 1150
Dallas, TX 75251-1366
866 300-8524

Location Involved: (Same as above)

Consumer's Original Complaint :

The dallas Housing Authority contracted with Backgroundchecks.com to investigate My background for Housing. On 12/02/10, REPORT #36431410 a twenty four page report and summary were made and sent to the Housing Authority. On 12/13/10, My application for an Apartment were denied based on this Report, in that the first Nine pages are false or relates to someone with a similar name, but different Dates of Birth and other distinctions. On 12/16/10, I ask Backgroundcheck by phone & Fax to correct the error in this Report, all to No avail. this Negligent made Report has impeded My ability to obtain emergency housing from the Dallas Housing Authority.

Consumer's Desired Resolution:

Prepare an Amended/Corrected Report to the dallas Housing Authority.

BBB Processing

12/16/2010	web	BBB	Case Received by BBB
12/17/2010	JER	BBB	Case Reviewed by BBB
12/17/2010	Otto	EMAIL	Send Acknowledgement to Consumer
12/17/2010	Otto	EMAIL	Notify Business of Dispute
12/28/2010	WEB	BBB	RECEIVE BUSINESS RESPONSE : Consumer submitted a request for reinvestigation of the report supplied to DHA and as a result of our investigation the report has been updated accordingly and both DHA (the client) and the consumer have been notified of the results.
12/28/2010	PAL	EMAIL	Forward Business response to Consumer
12/29/2010	WEB	BBB	CUSTOMER DISSAT - MEMBER COMPANY - BBB REVIEW : (The consumer indicated he/she DID NOT accept the response from the business.)

I HAVE NOT received any response from this Business and they have not allowed Me to review this allege revision, nor has it changed the decision made by DHA from the first erroneous Report denying Me housing because of the fabricated Report negligently made.

12/29/2010	LAY	MAIL	BBB Review Consumers Response
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EXHIBIT (A)



Dallas Housing Authority



3939 N. Hampton Rd., Dallas, TX 75212 | Phone: 214.951.8300 | Fax: 214.951.8800 | www.dhadal.com

01/07/2011

ARTHUR CARSON
2608 HIGHLAND RD 110
DALLAS, TX 75228

RE: Informal Review Decision

Dear ARTHUR CARSON:

According to the Housing Authority of the City of Dallas, Texas (DHA) Procedure 6004.1, Section E, you are hereby notified that your request to re-instate your application for housing has been denied. This decision is based on DHA's Admissions and Continued Occupancy Policy 600-1, Section I, Subsection F (Eligibility for Admissions).

Thank you for your interest in the Dallas Housing Authority.

Sincerely,

Dana Arnette
Intake & Placement
214-951-8443

EXHIBIT (B)

DHA is a Fair Housing and Equal Opportunity Agency
Individuals with disabilities may contact the 504/ADA Coordinator at 214.951.8348,
TTY 1.800.735.2989 or 504ADA@dhadal.com

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Arthur carson

DEFENDANTS

Dana Arnette, Carolyn Stoval, and Dallas Housing Authority, et al
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

(b) County of Residence of First Listed Plaintiff DALLAS

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant DALLAS

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number) PRO-SE
ART CARSON, 2608 Highland Rd. #110
DALLAS, TX. 75228 - Ph # 214-324-5667

Attorneys (If Known) 3-11 CV 0139 B
DHA - 3939 N. Hampton Rd. / Ph # 214-951-8300
DALLAS, TX. 75212

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input checked="" type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 1983

Brief description of cause:

Due Process Violation Termination of Housing Assistance

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) (See instructions)

PENDING OR CLOSED:

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ACT CARSON
2608 Highland Rd. #10
DALLAS, TX 75228



UNITED STATES DISTRICT C
NORTH DISTRICT OF TEXAS
1100 COMMERCE ST.
DALLAS, TX 75248

